IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 4910 of 2007(H)

SA.6/2007 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM.
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PETITIONER:

A.MARIYAM BEEVI, (AGED 74 YEARS),
W/O. LATE M.NOOHUKANNU, HOUSE NO.N.P. VII/415,
KAIMANAM, PAPPANAMCODE P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.MATHEWS V.JACOB (PARAVUR),
SRI.N.T.NANDAKUMAR (PARAVUR).

RESPONDENTS:
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1. **THE AUTHORISED OFFICER,**
   UNION BANK OF INDIA, P.B.NO.307,
   M.G.ROAD, STATUE, THIRUVANANTHAPURAM-695 001.

2. **REJI MATHEW,**
   OONNUKALLAM THOTTIYIL HOUSE, KATTACHIRA,
   ETTUMANOOR, KOTTAYAM, PIN-686 572.

3. **THE HON'BLE DEBTS RECOVERY TRIBUNAL,**
   ERNAKULAM.

BY ADV. SRI.A.S.P.KURUP, SC, UBI,
SMT.T.D.RAJALAKSHMIFOR R2,
SRI.E.R.VENKATESWARAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.4910/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTICE DTD. 26/04/2005 U/S. 13 (2) ISSUED BY THE R.1.

EXT.P.2: COPY OF THE NOTICE DTD. 26/04/2005 U/S. 13 (2) ISSUED BY THE R.1.

EXT.P.3: COPY OF THE SALE NOTICE DTD. 22/02/2006 ISSUED BY THE R.1.

EXT.P.4: COPY OF THE LETTER DTD. 28/04/2006 ISSUED BY THE R.1.

EXT.P.5: COPY OF THE LETTER DTD. 29/05/2006 ISSUED BY THE R.1.

EXT.P.6: COPY OF THE S.A. DTD. 12/10/2006 FILED BEFORE THE R.3. BY THE PETITIONER.

EXT.P.7: COPY OF THE STAY APPLICATION DTD. 30/10/2006 FILED BEFORE THE R.3.

EXT.P.8: COPY OF THE COUNTER TO STAY PETITION DTD. 21/11/2006 AND FILED BY THE R.1.

EXT.P.9: COPY OF THE IMPUGNED ORDER DTD. 30/01/2007 PASSED BY THE R.3.

EXT.P.10: COPY OF THE ORDER OF THIS HON'BLE COURT DTD. 14/12/2006 IN W.P. NO. 27996/2006.

RESPONDENT'S EXHIBITS:

EXT.R2.A: COPY OF THE LETTER SENT BY THE R.2. TO THE R.1. DT. 07/03/2006.

EXT.R2.B: COPY OF THE LETTER SENT BY THE R.2. TO THE R.1. DT. 10/05/2006.

EXT.R2.C: COPY OF THE LETTER SENT BY THE R.1. TO THE R.2. DT. 12/05/2006.

EXT.R2.D: COPY OF THE LETTER SENT BY THE R.2. TO THE R.1. DT. 30/08/2006.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 4910 OF 2007-H

JUDGMENT

The petitioner challenges Ext.P9 order of the Debt Recovery Tribunal. It is an order passed in an interlocutory application. That means, the main appeal is pending. The learned standing counsel for the Bank as well as the auction purchaser would point out that the appeal itself is not maintainable and in view of Ext.P9 nothing survives in the appeal. Therefore, the writ petition may be dismissed.

2. This Court has already issued a direction in Ext.P10 judgment to give possession of the property to the auction purchaser, the 2nd respondent herein. But, the said direction was issued without prejudice to the right of the writ petitioner, to work out her remedy before the appropriate forum. Having regard to the facts of the case, the 3rd respondent is directed to pass final orders on the appeal as expeditiously as possible, at any rate, within one month from today. The petitioner or the respondents may produce a copy of this judgment before the Tribunal without delay. Since there was already a direction against dispossession, the same will remain in force for a period of one month from today or till the disposal of the appeal by the

D.R.T., whichever is earlier. It is made clear that I have not expressed any opinion on the merits of the case put forward by the petitioner.

The Writ Petition is disposed of as above.

9th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/